



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60 and 63

[EPA-HQ-OAR-2022-0879; FRL-8899-01-OAR]

RIN 2060-AV40

National Emission Standards for Hazardous Air Pollutants: Reciprocating Internal Combustion Engines and New Source Performance Standards: Internal Combustion Engines; Electronic Reporting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to amend the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Reciprocating Internal Combustion Engines (RICE), the New Source Performance Standards (NSPS) for Stationary Compression Ignition (CI) Internal Combustion Engines, and the NSPS for Stationary Spark Ignition (SI) Internal Combustion Engines, to add electronic reporting provisions. The addition of electronic reporting provisions will provide for simplified reporting by sources and enhance availability of data on sources to the EPA and the public. In addition, a small number of clarifications and corrections to these rules are being proposed to correct inadvertent and other minor errors in the Code of Federal Regulations (CFR), particularly related to tables. Finally, information is being solicited on the provisions specifying that emergency engines can operate for up to 50 hours per year to mitigate local transmission and/or distribution limitations to avert potential voltage collapse or line overloads that could lead to the interruption of power supply in a local area or region.

DATES: *Comments.* Comments must be received on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Comments on the information collection provisions submitted to the Office of Management and Budget (OMB)

under the Paperwork Reduction Act (PRA) are best assured of consideration by OMB if OMB receives a copy of your comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

Public hearing: If anyone contacts us requesting a public hearing on or before **[INSERT DATE 5 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, we will hold a virtual public hearing. See **SUPPLEMENTARY INFORMATION** for information on requesting and registering for a public hearing.

ADDRESSES: You may send comments, identified by Docket ID No. EPA-HQ-OAR-2022-0879, by any of the following methods:

- Federal eRulemaking Portal: <https://www.regulations.gov/> (our preferred method).
Follow the online instructions for submitting comments.
- Email: a-and-r-docket@epa.gov. Include Docket ID No. EPA-HQ-OAR-2022-0879 in the subject line of the message.
- Fax: (202) 566-9744. Attention Docket ID No. EPA-HQ-OAR-2022-0879.
- Mail: U.S. Environmental Protection Agency, EPA Docket Center, Docket ID No. EPA-HQ-OAR-2022-0879, Mail Code 28221T, 1200 Pennsylvania Avenue, NW, Washington, DC 20460.
- Hand/Courier Delivery: EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue, NW, Washington, DC 20004. The Docket Center's hours of operation are 8:30 a.m. – 4:30 p.m., Monday – Friday (except Federal Holidays).

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to <https://www.regulations.gov/>, including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: For questions about this proposed action, contact Christopher Werner, Sector Policies and Programs Division (D243-01), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541-5133; and email address: *werner.christopher@epa.gov*.

SUPPLEMENTARY INFORMATION:

Participation in virtual public hearing. To request a virtual public hearing, contact the public hearing team at (888) 372-8699 or by email at *SPPDpublichearing@epa.gov*. If requested, the hearing will be held via virtual platform on **[INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. The hearing will convene at 9 a.m. Eastern Time (ET) and will conclude at 3 p.m. ET. The EPA may close a session 15 minutes after the last pre-registered speaker has testified if there are no additional speakers. The EPA will announce further details at *<https://www.epa.gov/stationary-engines/>*.

The EPA will begin pre-registering speakers for the hearing no later than 1 business day after a hearing request is received. To register to speak at the virtual hearing, please use the online registration form available at *<https://www.epa.gov/stationary-engines/>* or contact the public hearing team at (888) 372-8699 or by email at *SPPDpublichearing@epa.gov*. The last day to pre-register to speak at the hearing will be **[INSERT DATE 12 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Prior to the hearing, the EPA will post a general agenda that will list pre-registered speakers in approximate order at: *<https://www.epa.gov/stationary-engines/>*.

The EPA will make every effort to follow the schedule as closely as possible on the day of the hearing; however, please plan for the hearings to run either ahead of schedule or behind schedule.

Each commenter will have 4 minutes to provide oral testimony. The EPA encourages commenters to submit a copy of their oral testimony as written comments to the rulemaking docket.

The EPA may ask clarifying questions during the oral presentations but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as oral testimony and supporting information presented at the public hearing.

Please note that any updates made to any aspect of the hearing will be posted online at <https://www.epa.gov/stationary-engines/>. While the EPA expects the hearing to go forward as set forth above, please monitor our website or contact the public hearing team at (888) 372-8699 or by email at SPPDpublichearing@epa.gov to determine if there are any updates. The EPA does not intend to publish a document in the *Federal Register* announcing updates.

If you require the services of a translator or a special accommodation such as audio description, please pre-register for the hearing with the public hearing team and describe your needs by **[INSERT DATE 7 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. The EPA may not be able to arrange accommodations without advance notice.

Docket. The EPA has established a docket for this rulemaking under Docket ID No. EPA-HQ-OAR-2022-0879. All documents in the docket are listed in <https://www.regulations.gov/>. Although listed, some information is not publicly available, *e.g.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy.

Written Comments. Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2022-0879, at <https://www.regulations.gov> (our preferred method), or the other methods identified in the ADDRESSES section. Once submitted, comments cannot be edited or removed from the docket. The EPA may publish any comment received to its public docket. Do not

submit to the EPA's docket at <https://www.regulations.gov> any information you consider to be CBI or other information whose disclosure is restricted by statute. This type of information should be submitted as discussed in the *Submitting CBI* section of this document.

Multimedia submissions (audio, video, *etc.*) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*e.g.*, on the Web, cloud, or other file sharing system). Please visit <https://www.epa.gov/dockets/commenting-epa-dockets> for additional submission methods; the full EPA public comment policy; information about CBI or multimedia submissions; and general guidance on making effective comments.

The <https://www.regulations.gov/> website allows you to submit your comment anonymously, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through <https://www.regulations.gov/>, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any digital storage media you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should not include special characters or any form of encryption and be free of any defects or viruses.

Submitting CBI. Do not submit information containing CBI to the EPA through <https://www.regulations.gov/>. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on any digital storage media that you mail to the EPA, note the docket ID, mark the outside of the digital storage media as CBI, and identify electronically within the digital storage media the specific information that is claimed as CBI. In addition to one complete

version of the comments that includes information claimed as CBI, you must submit a copy of the comments that does not contain the information claimed as CBI directly to the public docket through the procedures outlined in the *Written Comments* section of this document. If you submit any digital storage media that does not contain CBI, mark the outside of the digital storage media clearly that it does not contain CBI and note the docket ID. Information not marked as CBI will be included in the public docket and the EPA's electronic public docket without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

Our preferred method to receive CBI is for it to be transmitted electronically using email attachments, File Transfer Protocol (FTP), or other online file sharing services (*e.g.*, Dropbox, OneDrive, Google Drive). Electronic submissions must be transmitted directly to the OAQPS CBI Office at the email address oaqpscbi@epa.gov, and as described above, should include clear CBI markings and note the docket ID. If assistance is needed with submitting large electronic files that exceed the file size limit for email attachments, and if you do not have your own file sharing service, please email oaqpscbi@epa.gov to request a file transfer link. If sending CBI information through the postal service, please send it to the following address: OAQPS Document Control Officer (C404-02), OAQPS, U.S. Environmental Protection Agency, 109 T.W. Alexander Drive, P.O. Box 12055, Research Triangle Park, North Carolina 27711, Attention Docket ID No. EPA-HQ-OAR-2022-0879. The mailed CBI material should be double wrapped and clearly marked. Any CBI markings should not show through the outer envelope.

Organization of this document. The information in this preamble is organized as follows:

I. General Information

A. Does this action apply to me?

B. Where can I get a copy of this document and other related information?

II. Background

III. What actions are we proposing?

A. Summary of Actions Being Proposed

B. Electronic Reporting

C. Clarifications to Table 4 in Subpart IIII

D. Correction of Inadvertent Errors in Subpart ZZZZ

E. Clarifications to the Oil Change Requirement in Subpart ZZZZ

- F. Compliance Dates
- IV. Summary of Cost, Environmental, and Economic Impacts
 - A. What are the affected sources?
 - B. What are the air quality impacts?
 - C. What are the cost impacts?
 - D. What are the economic impacts?
 - E. What are the benefits?
- V. Request for Comments
- VI. Statutory and Executive Order Reviews
 - A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
 - B. Paperwork Reduction Act (PRA)
 - C. Regulatory Flexibility Act (RFA)
 - D. Unfunded Mandates Reform Act (UMRA)
 - E. Executive Order 13132: Federalism
 - F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments
 - G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks
 - H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
 - I. National Technology Transfer and Advancement Act (NTTAA)
 - J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

I. General Information

A. Does this action apply to me?

Regulated entities. Categories and entities potentially regulated by this action include industries using stationary engines, including both compression and spark ignition internal combustion engines, such as: Electric power generation, transmission, or distribution; Medical and surgical hospitals; Natural gas transmission; Crude petroleum and natural gas production; Natural gas liquids producers; and National security. North American Industry Classification System Codes of potentially regulated industries may include 2211, 622110, 48621, 211111, 211112, and 92811. This list is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by the proposed action for the source category listed. To determine whether your facility is affected, you should examine the applicability criteria in the rules. If you have any questions regarding the applicability of any aspect of this action, please contact the person listed in the preceding FOR FURTHER INFORMATION CONTACT section of this preamble.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this action is available on the Internet at <https://www.epa.gov/stationary-engines/>. Following publication in the *Federal Register*, the EPA will post the *Federal Register* version of the proposal and key technical documents at this same website.

Memoranda showing the rule edits that would be necessary to incorporate the changes to 40 CFR part 60, subpart IIII, 40 CFR part 60, subpart JJJJ, and 40 CFR part 63, subpart ZZZZ, proposed in this action are available in the docket (Docket ID No. EPA-HQ-OAR-2022-0879). Following signature by the EPA Administrator, the EPA also will post a copy of this document to <https://www.epa.gov/stationary-engines/>.

II. Background

Stationary engines are used in a variety of applications from generating electricity to powering pumps and compressors in power and manufacturing plants. They are also used in the event of an emergency such as fire or flood. The key pollutants the EPA regulates from these sources include formaldehyde, acetaldehyde, acrolein, methanol, polycyclic aromatic hydrocarbon (PAH), volatile organic compounds (VOC), carbon monoxide (CO), nitrogen oxides (NO_x), particulate matter (PM), sulfur dioxide (SO₂), and hydrocarbons (HC).

A compression ignition (CI) engine, or diesel engine, is a type of engine in which the fuel injected into the combustion chamber is ignited by a heat resulting from the compression of gases inside the cylinder. A spark ignition (SI) engine is a type of engine in which the fuel-air mixture in the combustion chamber is ignited by a spark from a spark plug.

The NESHAP for RICE is in 40 CFR 63, subpart ZZZZ, which was first promulgated in 2004. The NSPS for Stationary CI Internal Combustion Engines is in 40 CFR part 60, subpart IIII, which was first promulgated in 2006. The NSPS for Stationary SI Internal Combustion Engines is in 40 CFR part 60, subpart JJJJ, which was first promulgated in 2008. All have been amended several times since promulgation.

III. What actions are we proposing?

A. Summary of Actions Being Proposed

In this action, we are proposing the following pursuant to Clean Air Act (CAA) sections 111 and 112: addition of requirements for electronic reporting to 40 CFR part 60, subpart IIII, 40 CFR part 60, subpart JJJJ, and 40 CFR part 63, subpart ZZZZ; clarifications to table 4 in subpart IIII due to incorrect display in the CFR; the correction of inadvertent errors in subpart ZZZZ, specifically in 40 CFR 63.6625(j) and its need to reference additional line items in table 2d; and clarifications to the oil change requirements for engines subject to them as referenced in subpart ZZZZ, tables 2c and 2d.

B. Electronic Reporting

The EPA is proposing that owners and operators of stationary engines subject to NSPS subparts IIII or JJJJ, or NESHAP subpart ZZZZ, submit electronic copies of certain initial notifications of compliance, performance test reports, Notification of Compliance Status (NOCS), and annual and semiannual compliance reports through the EPA's Central Data Exchange (CDX) using the Compliance and Emissions Data Reporting Interface (CEDRI). A description of the electronic data submission process is provided in the memorandum *Electronic Reporting Requirements for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) Rules*, available in the docket for this action. The proposed rule requires that the initial notification of compliance be submitted through CEDRI. The proposed rule requires that performance test results collected using test methods that are supported by the EPA's Electronic Reporting Tool (ERT) as listed on the ERT website¹ at the time of the test be submitted in the format generated through the use of the ERT or an electronic file consistent with the xml schema on the ERT website, and other performance test results be submitted in portable document format (PDF) using the attachment module of the

¹ <https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert>.

ERT. The proposed rule requires that NOCS for NESHAP subpart ZZZZ be submitted as a PDF upload in CEDRI.

For annual and semiannual compliance reports, the proposed rule requires that owners and operators use the appropriate spreadsheet template to submit information to CEDRI. A draft version of the proposed template(s) for these reports is included in the docket for this action.² The EPA specifically requests comment on the content, layout, and overall design of the template(s).

Additionally, the EPA has identified two broad circumstances in which electronic reporting extensions may be provided. These circumstances are: (1) Outages of the EPA's CDX or CEDRI which preclude an owner or operator from accessing the system and submitting required reports and (2) *force majeure* events, which are defined as events that will be or have been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevent an owner or operator from complying with the requirement to submit a report electronically. Examples of *force majeure* events are acts of nature, acts of war or terrorism, or equipment failure or safety hazards beyond the control of the facility. The EPA is providing these potential extensions to protect owners and operators from noncompliance in cases where they cannot successfully submit a report by the reporting deadline for reasons outside of their control. In both circumstances, the decision to accept the claim of needing additional time to report is within the discretion of the Administrator, and reporting should occur as soon as possible.

The electronic submittal of the reports addressed in this proposed rulemaking will increase the usefulness of the data contained in those reports, is in keeping with current trends in data availability and transparency, will further assist in the protection of public health and the

² See 60.4214d3_annual_report_bulk_upload_template_ICRDraft.xlsx, 60.4245e3_annual_report_bulk_upload_template_ICRDraft.xlsx, and §63.6650_h_and_i Compliance Report Template_ICRDraft.xlsm, available at Docket ID. No. EPA-HQ-OAR-2022-0879.

environment, will improve compliance by facilitating the ability of regulated facilities to demonstrate compliance with requirements and by facilitating the ability of delegated State, local, Tribal, and territorial air agencies and the EPA to assess and determine compliance, and will ultimately reduce burden on regulated facilities, delegated air agencies, and the EPA. Electronic reporting eliminates paper-based, manual processes, thereby saving time and resources, simplifying data entry, eliminating redundancies, minimizing data reporting errors, and providing data quickly and accurately to the affected facilities, air agencies, the EPA, and the public. Moreover, electronic reporting is consistent with the EPA's plan³ to implement Executive Order 13563 and is in keeping with the EPA's agency-wide policy⁴ developed in response to the White House's Digital Government Strategy.⁵ For more information on the benefits of electronic reporting, see the memorandum *Electronic Reporting Requirements for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) Rules*, referenced in this section III. B.

As part of the electronic reporting effort, reporting requirements in subpart ZZZZ were clarified and adjusted to be consistent for all engine types as well as to provide specificity in units of measure and to provide consistency between the NSPS and the NESHAP. For example, engine site rating in HP, date construction commenced, type of engine, and latitude and longitude of the engine location were not previously required to be reported by the NESHAP, but had been required by the NSPS, so are now being proposed to be added to subpart ZZZZ for consistency. With these changes, the regulatory text at 40 CFR 63.6650 now includes all of the

³ EPA's Final Plan for Periodic Retrospective Reviews, August 2011. Available at: <https://www.regulations.gov/document?D=EPA-HQ-OA-2011-0156-0154>.

⁴ E-Reporting Policy Statement for EPA Regulations, September 2013. Available at: <https://www.epa.gov/sites/production/files/2016-03/documents/epa-ereporting-policy-statement-2013-09-30.pdf>.

⁵ Digital Government: Building a 21st Century Platform to Better Serve the American People, May 2012. Available at: <https://obamawhitehouse.archives.gov/sites/default/files/omb/egov/digital-government/digital-government.html>.

applicable data elements required by 40 CFR 63.10(e)(3), and the general provisions

applicability table is revised to reflect that 40 CFR 63.10(e)(3) is no longer applicable.

C. Clarifications to Table 4 in Subpart IIII

As it currently appears in the CFR, “Table 4 to Subpart IIII of Part 60 - Emission Standards for Stationary Fire Pump Engines” has proven confusing to the public because it shows blank cells for the CO standard for certain engine model years. This is not the correct interpretation of the table, as the same CO standard applies for all model years. The table was not intended to be displayed in this manner and simply reflects a mismatch between what was submitted by the EPA and what was able to be shown in the CFR. Therefore, the clarified table is set out as table 1 in this paragraph. The EPA invites comment on whether any other aspect of this table is confusing or incorrect; however, we are not soliciting comment on the standards themselves.

Table 1. Clarified Version of “Table 4 to Subpart IIII of Part 60 – Emission Standards For Stationary Fire Pump Engines”

Maximum engine power	Model year(s)	NMHC + NO_x	CO	PM
KW<8 (HP<11)	2010 and earlier	10.5 (7.8)	8.0 (6.0)	1.0 (0.75)
KW<8 (HP<11)	2011 +	7.5 (5.6)	8.0 (6.0)	0.40 (0.30)
8≤KW<19 (11≤HP<25)	2010 and earlier	9.5 (7.1)	6.6 (4.9)	0.80 (0.60)
8≤KW<19 (11≤HP<25)	2011 +	7.5 (5.6)	6.6 (4.9)	0.40 (0.30)
19≤KW<37 (25≤HP<50)	2010 and earlier	9.5 (7.1)	5.5 (4.1)	0.80 (0.60)
19≤KW<37 (25≤HP<50)	2011 +	7.5 (5.6)	5.5 (4.1)	0.30 (0.22)
37≤KW<56 (50≤HP<75)	2010 and earlier	10.5 (7.8)	5.0 (3.7)	0.80 (0.60)
37≤KW<56 (50≤HP<75)	2011 + ¹	4.7 (3.5)	5.0 (3.7)	0.40 (0.30)
56≤KW<75 (75≤HP<100)	2010 and earlier	10.5 (7.8)	5.0 (3.7)	0.80 (0.60)
56≤KW<75 (75≤HP<100)	2011 + ¹	4.7 (3.5)	5.0 (3.7)	0.40 (0.30)
75≤KW<130 (100≤HP<175)	2009 and earlier	10.5 (7.8)	5.0 (3.7)	0.80 (0.60)
75≤KW<130 (100≤HP<175)	2010 + ²	4.0 (3.0)	5.0 (3.7)	0.30 (0.22)
130≤KW<225 (175≤HP<300)	2008 and earlier	10.5 (7.8)	3.5 (2.6)	0.54 (0.40)
130≤KW<225 (175≤HP<300)	2009 + ³	4.0 (3.0)	3.5 (2.6)	0.20 (0.15)
225≤KW<450 (300≤HP<600)	2008 and earlier	10.5 (7.8)	3.5 (2.6)	0.54 (0.40)
225≤KW<450 (300≤HP<600)	2009 + ³	4.0 (3.0)	3.5 (2.6)	0.20 (0.15)
450≤KW≤560 (600≤HP≤750)	2008 and earlier	10.5 (7.8)	3.5 (2.6)	0.54 (0.40)
450≤KW≤560 (600≤HP≤750)	2009 +	4.0 (3.0)	3.5 (2.6)	0.20 (0.15)
KW>560 (HP>750)	2007 and earlier	10.5 (7.8)	3.5 (2.6)	0.54 (0.40)
KW>560 (HP>750)	2008 +	6.4 (4.8)	3.5 (2.6)	0.20 (0.15)

¹ For model years 2011-2013, manufacturers, owners and operators of fire pump stationary CI ICE in this engine power category with a rated speed of greater than 2,650 revolutions per minute (rpm) may comply with the emission limitations for 2010 model year engines.

² For model years 2010-2012, manufacturers, owners and operators of fire pump stationary CI ICE in this engine power category with a rated speed of greater than 2,650 rpm may comply with the emission limitations for 2009 model year engines.

³ In model years 2009-2011, manufacturers of fire pump stationary CI ICE in this engine power category with a rated speed of greater than 2,650 rpm may comply with the emission limitations for 2008 model year engines.

D. Correction of Inadvertent Errors in Subpart ZZZZ

As it currently appears in the CFR, table 2d in 40 CFR part 63, subpart ZZZZ correctly indicates multiple SI engine types for which oil change requirements apply. Specifically, table 2d's items numbers 5, 6, 7, 8, 10, 11, and 13 all indicate SI engine types for which these requirements apply. When this table was last revised,⁶ corresponding changes to § 63.6625(j) were inadvertently not made. Therefore, the current version of § 63.6625(j), which specifies that an oil analysis program can be used in order to extend the oil change requirements, refers to an incorrect set of table 2d's item numbers. Therefore, the EPA is proposing to amend § 63.6625(j) to include the correct list of table 2d's item numbers, specifically 5, 6, 7, 8, 10, 11, and 13, that indicate SI engine types for which oil change requirements apply.

E. Clarifications to the Oil Change Requirement in Subpart ZZZZ

As indicated in tables 2c and 2d of 40 CFR part 63, subpart ZZZZ, several types of CI and SI engines are subject to oil change requirements. The number of hours of operation stated in the requirement vary by engine type; however in each instance, the requirement is phrased as: "Change oil and filter every X,XXX hours of operation or annually, whichever comes first."

The EPA receives frequent inquiries from regulated entities regarding these provisions, most often revolving around the meaning of the term "annually." For example, regulated entities sometimes inquire whether "annually" means "every calendar year." In such a case, the inquiry amounts to essentially whether an oil change could hypothetically be conducted on January 1,

⁶ 78 FR 6709 (January 30, 2013).

2019, and the next oil change could then be conducted on December 31, 2020, since 2020 is the calendar year that falls immediately after 2019 (this assumes of course that X,XXX hours of operation has not occurred). In such a scenario, however, these 2 hypothetical oil changes will have actually occurred almost exactly 2 years apart, minus a day.

This is never what the EPA intended with the terminology of “annually” in tables 2c and 2d of subpart ZZZZ. It is important for oil changes to occur as close as possible to 12 months apart to minimize emissions, absent use of the oil analysis programs afforded by 40 CFR 63.6625(i) and (j). The same language of “annually” also appears in these tables related to items such as spark plug, air cleaner, and hose and belt inspections, and similar concerns about emissions and engine reliability apply. Therefore, the EPA is proposing to replace each instance of the term “annually” in tables 2c and 2d with the term “every 12 months.”⁷

In addition, it is worthwhile to note that the EPA also occasionally receives questions as to whether regulated entities that adopt the oil analysis program in 40 CFR 63.6625(i) or (j) must change the oil filter on a more frequent basis than the oil even when the oil analysis program indicates condemning limits have not yet been reached. We wish to clarify that regulated entities that adopt the oil analysis program must change the oil filter for these generators when changing the oil and are not required to change the filter prior to changing the oil. The intention of the EPA’s regulations is that the oil filter should always be changed whenever the engine oil is changed, and we are proposing changes to the regulatory text to this effect. Also please note that nothing in the EPA’s regulations prevents the owner and operator from changing the oil and/or oil filter sooner than condemning limits have been reached, if desired.

F. Compliance Dates

⁷ Additionally, the same language of “annually” also in appears in a separate location in subpart ZZZZ, namely in the subsection on management practices applicable to existing stationary non-emergency CI RICE with a site rating of more than 300 HP located on an offshore vessel that is an area source of HAP and is a nonroad vehicle that is an Outer Continental Shelf (OCS) source as defined in 40 CFR 55.2. Similar concerns apply to the engines affected by this subsection (40 CFR 63.6603), so we are likewise proposing to replace each instance of the term “annually” with the term “every 12 months” here.

Our experience with other industries that are required to convert reporting mechanisms, install necessary hardware and software, become familiar with the process of submitting performance test results electronically through the EPA's CEDRI, test these new electronic submission capabilities, reliably employ electronic reporting, and convert logistics of reporting processes to different time-reporting parameters shows that a time period of a minimum of 90 days, but more typically 180 days, is generally necessary to successfully complete these changes. Due to the diverse nature of the stationary engine sector, the EPA is proposing to allow 180 days from the date of the final rule, or 1 year from date that the report template is made available on CEDRI, whichever is later, for compliance with the proposed electronic reporting requirements.

For all other proposed requirements, because they are non-substantive edits simply to clarify existing requirements, the EPA is proposing to make them effective immediately upon promulgation of the final rule.

IV. Summary of Cost, Environmental, and Economic Impacts

A. What are the affected sources?

As mentioned previously, categories and entities potentially regulated by this action include industries using stationary RICE, including both compression and spark ignition internal combustion engines, such as: Electric power generation, transmission, or distribution; Medical and surgical hospitals; Natural gas transmission; Crude petroleum and natural gas production; Natural gas liquids producers; and National security (North American Industry Classification System Codes 2211, 622110, 48621, 211111, 211112, and 92811). This list is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by the proposed action for the source category listed.

B. What are the air quality impacts?

No air quality impacts are expected to result from this rulemaking.

C. What are the cost impacts?

The EPA estimated costs for this proposed action are based on the results of the analysis for information collection activities, as presented in the Paperwork Reduction Act (PRA) section and accompanying Information Collection Request (ICR) documents in the docket.

When assessed over the first 3 years of compliance (2024 to 2026), the incremental costs for both NSPS (subpart IIII and subpart JJJJ) are estimated to be negative, *i.e.*, reflect a cost savings, for all 3 years. For the NESHAP (subpart ZZZZ), the incremental cost is estimated to have costs in 2024 followed by cost savings in 2025 and 2026. When viewed on an overall basis (*i.e.*, all subparts considered), undiscounted costs for the proposed rule, in 2021\$, are \$18.0 million in 2024, (\$38.0 million) in 2025, and (\$38.2 million) in 2026, with parentheses indicating negative values, *i.e.*, cost savings. Although the EPA also anticipates that the proposed rule will continue to result in cost savings in years beyond 2026 for all subparts, we have not estimated the magnitude or duration of these cost savings. This is in line with electronic reporting reducing burden on regulated entities and the EPA by eliminating paper-based processes and providing data quickly and accurately.

More details on cost impact analyses for the proposed rule can be found in the “*What are the economic impacts?*” section of this preamble as well as in Section 2 of the memorandum, *Economic Impact and Small Business Analysis for the Proposed National Emission Standards for Hazardous Air Pollutants: Reciprocating Internal Combustion Engines and New Source Performance Standards: Internal Combustion Engines; Electronic Reporting Amendments*, which is also available in the docket for this action.

D. What are the economic impacts?

The EPA conducted economic impact analyses for the proposed rule, as detailed in the memorandum, *Economic Impact and Small Business Analysis for the Proposed National Emission Standards for Hazardous Air Pollutants: Reciprocating Internal Combustion Engines and New Source Performance Standards: Internal Combustion Engines; Electronic Reporting Amendments*, which is available in the docket for this action.

Costs were estimated for the first 3 years following this action. Correspondingly, a 3-year period from 2024 to 2026 was selected as the best measure of the economic impacts of this action. This allowed for a reasonable and consistent timeframe over which to examine impacts of this action from a present value (PV) perspective. The PV in 2021 dollars is a cost saving of approximately \$51.8 million using a 3 percent discount rate, and a cost saving of approximately \$44.5 million using a 7 percent discount rate.⁸ The equivalent annualized value (EAV), in 2021 dollars, is a cost saving of approximately \$18.3 million using a discount rate of 3 percent, and a cost saving of approximately \$16.9 million using a discount rate of 7 percent.

The amendments to subparts IIII and JJJJ have estimated cost savings for respondents in each year. We conducted an analysis assessing the impacts of the costs associated with the amendments to subpart ZZZZ. As shown in the supporting statement to subpart ZZZZ, the amendments to ZZZZ have estimated costs of \$32 per respondent for the first year and cost savings thereafter. As described the economic impact analysis, for the first year such costs are less than 0.1 percent of the average affected entity's payroll, and we conclude that it is reasonable to assume that such costs represent less than 0.1 percent of sales for the average affected entity.⁹

Given the results of the analysis, these economic impacts are relatively low for affected industries and entities impacted by this proposed rule, and there will not be substantial impacts on the markets for affected products. The costs of the proposed rule are not expected to result in a significant market impact, regardless of whether they are passed on to the purchaser or absorbed by the firms.

⁸ Present value and equivalent annualized value calculations can be found in *RICE proposal - economic analysis.xls*, a spreadsheet that includes the basis for the economic impacts that was generated by the EPA for this analysis report. This spreadsheet can be found in the docket for this rulemaking.

⁹ The memorandum titled *Economic Impact and Small Business Analysis for the Proposed National Emission Standards for Hazardous Air Pollutants: Reciprocating Internal Combustion Engines and New Source Performance Standards: Internal Combustion Engines; Electronic Reporting Amendment* is available in the docket for this action.

E. What are the benefits?

The EPA is not making changes to the emission limits and estimates that the proposed requirements for electronic reporting are not economically significant. Because these proposed amendments are not considered economically significant, as defined by Executive Order 12866, and because no emission reductions were projected, we are not estimating any benefits from reducing emissions.

V. Request for Comments

We solicit comments on this proposed action. In addition to general comments on this proposed action, we are also interested in any comments on the reporting template found in the docket for this action.

The EPA also seeks comments on the provisions specifying that emergency engines can operate for up to 50 hours per year to mitigate local transmission and/or distribution limitations to avert potential voltage collapse or line overloads that could lead to the interruption of power supply in a local area or region. These provisions appear in the NESHAP¹⁰ and both NSPS¹¹ and are often referred to as the “50-hour provisions.” As background, both the NESHAP and NSPS have separate requirements for emergency engines and, in many cases, subject them to less stringent requirements compared to non-emergency engines. In addition, the rules also limit the allowable hours of operation for emergency engines in non-emergency situations.

In 2013, the EPA finalized a rule that made changes to the stationary engine NESHAP and NSPS regarding limitations on the hours of operation of emergency engines (78 FR 6674; January 30, 2013). Prior to the 2013 amendments, emergency engines were restricted to 100 hours of operation per year for maintenance and testing, of which 15 could be used for emergency demand response (*i.e.*, to help stabilize the electric grid during rare “near-blackout” situations). These provisions were often referred to as the “emergency demand response” or

¹⁰ 40 CFR 63.6640(f)(4)(ii).

¹¹ 40 CFR 60.4211(f)(3)(i), 40 CFR 60.4243(d)(3)(i).

“100-hour” provisions. The 2013 rule continued to restrict emergency engines to a collective 100 hours of operation per year for maintenance, testing, or emergency demand response but removed the 15-hour limit for emergency demand response. The 2013 rule specified that emergency engines can operate for up to 50 hours per year¹² in non-emergency situations (counted as part of the 100 hours discussed above), and that the 50 hours can be used to supply power as part of a financial arrangement with another entity (often referred to as the local system reliability or “50-hour” provisions) if the following conditions are met: the engine is dispatched by the local balancing authority or local transmission and distribution system operator; the dispatch is intended to mitigate local transmission and/or distribution limitations to avert potential voltage collapse or line overloads that could lead to the interruption of power supply in a local area or region; the dispatch follows reliability, emergency operation, or similar protocols that follow specific North American Electric Reliability Corporation (NERC), regional, State, public utility commission or local standards or guidelines; the power is provided only to the facility itself, or to support the local transmission and distribution system; and the owner or operator identifies and records the entity that dispatches the engine and the specific NERC, regional, State, public utility commission or local standards or guidelines that are being followed for dispatching the engine (the local balancing authority or local transmission and distribution system operator may keep these records on behalf of the engine owner or operator).

Petitions for review of the final 2013 rule were filed. The EPA granted reconsideration of 50-hour provisions and the litigation over those provisions was severed from other challenges and put in abeyance. In 2015, the U.S. Court of Appeals for the District of Columbia Circuit (the court) vacated and remanded the 100-hour provisions related to emergency demand response in *Delaware Dep't of Nat. Res. & Env't Control v. EPA*.¹³ The court found that the EPA inadequately responded to comments, relied on inadequate evidence to justify the 100-hour

¹² Note: For the NESHAP, the 50-hour provision only applies to engines at area sources.

¹³ 785 F.3d 1.

provision, failed to consider limiting the provision to areas not served by organized capacity markets, and failed to obtain the views of the Federal Energy Regulatory Commission (FERC) or NERC on the reliability considerations upon which the EPA’s exemption was based.¹⁴

Based on the adverse court decision on the 100-hour provisions, the EPA asked for and was granted a voluntary remand in the case challenging the 50-hour provisions. *Conservation Law Foundation v. EPA*, No. 13-1233, Doc. No. 1574665 (D.C. Cir. Sept. 23, 2015) (*CLF*). Our motion for voluntary remand¹⁵ noted that although “EPA intended the 50-hour provision to address a different need than the 100-hour provision—that of local electric reliability and distribution rather than grid reliability at the bulk power system level [and] EPA therefore required different conditions in order for the provision to be triggered,” petitioners challenged the 50-hour rule for very similar reasons, namely that the EPA did not sufficiently respond to comments regarding the 50-hour provision’s effects on the energy market and failed to consider alternatives for limiting the provision to areas most in need of the provision (*i.e.*, rural areas), rather than applying nationwide. *Id.* Doc. No. 1560303 (June 30, 2015).

Petitioners in *CLF* filed their briefs before the case was remanded, and the briefs included the following record-based arguments: the EPA’s decision to apply the 50-hour provision on a national basis was arbitrary, capricious, and inadequately explained; the EPA’s assertion that the 50-hour provision was needed for non-rural, more densely populated areas has no support in the record and is inconsistent with the EPA’s stated justification for the provision; the EPA erred in refusing to apply the 50-hour provision solely in areas where it is needed and failed to consider suggestions for narrowly tailoring the provisions to such areas; and the EPA’s analysis of the cost effectiveness of pollution controls was in error. *Id.* Doc. No. 1543351 (March 19, 2015). Delaware made additional arguments concerning the EPA’s authority both to revise the NSPS

¹⁴ 785 F.3d 1, 14 (D.C. Cir. 2015). The EPA recently removed the vacated 100-hour provisions from the CFR via a ministerial action. 87 FR 48603 (August 10, 2022).

¹⁵ These court filings are also available at the EPA’s website at: <https://www.epa.gov/stationary-engines/technical-documents-neshap-reciprocating-internal-combustion-engines-0>.

provisions and to promulgate the 50-hour provision under CAA section 112 (with respect to NESHAP). *Id.* Doc. No. 1543305 (March 19, 2015). The EPA indicated in recent status reports to the court that we intend to undertake a proceeding in the near future to revoke, revise, or justify the provision as appropriate.

We have been engaged in evaluating the need for this provision, including by assessing how often, and under what circumstances, the 50-hour provision is used by stakeholders.¹⁶ We also have been considering whether there are potential revisions that would narrow the provision to ensure that it is limited to remote rural areas (if those are the only areas where it is needed) and to reduce uncertainty concerning the meaning of “local balancing authority” and “local transmission and distribution system operator,” as well as how it can be determined that “[t]he dispatch is intended to mitigate local transmission ...”. Based on reported information, in the last few years, there appears to have been very little need for engines to operate for the purpose specified in the 50-hour provision. Stakeholders have suggested that there may have been usage of the provision that was not reported. However, the EPA has limited information to indicate that is the case. On the contrary, operation for the purpose specified in the 50-hour provision appears to be infrequent. In light of this limited information on current use and the court’s vacatur of the 100-hour provision, it may be appropriate to eliminate the 50-hour provision, rather than seeking to revise it to tailor the provision more carefully to be consistent with its original rationale and the court’s decision on the 100-hour provision. Therefore, in this proposal, we are also soliciting comment and information on the 50-hour provision as we consider whether to propose removing these provisions from the CFR or whether we should propose changes to the provision to be consistent with its original rationale and the court’s decision on the 100-hour provision. In

¹⁶ This undertaking has involved review by the EPA of reports submitted electronically to the EPA, because use of the 50-hour provision has always been subject to an electronic reporting requirement. An annual report under either subpart IIII, JJJJ, or ZZZZ must be submitted electronically by any entity making use of the 50-hour provision using the subpart-specific reporting form to CEDRI. The public can access records of previously submitted reports using WebFIRE (<https://cfpub.epa.gov/webfire/reports/eseach.cfm>).

particular, we seek comment on what, if any, revisions could be made that would adequately respond to the issues raised in the record to date (e.g., with respect to narrowing the scope of the exemption) in a future rulemaking. In addition, we solicit comment on whether, if the EPA determines on remand, in light of the vacatur of the 100-hour provision and issues raised in the pending litigation, that the current 50-hour provision was improperly promulgated, the removal (or modification) of the 50-hour provisions from the NSPS should be effective for sources currently subject to the NSPS; or whether the EPA should treat the removal or modification of the 50-hour provision as a modification of the standard that only applies prospectively to sources that are new, modified, or reconstructed after the EPA proposes to remove the 50-hour provisions, within the meaning of CAA section 111(a)(2).

VI. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at

<https://www.epa.gov/laws-regulations/laws-and-executive-orders>.

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563:

Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act (PRA)

The information collection activities in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the PRA. The Information Collection Request (ICR) documents that the EPA prepared have been assigned EPA ICR numbers 2196.08, 2227.07, and 1975.12 for subparts IIII, JJJJ, and ZZZZ, respectively. You can find copies of the ICRs in the docket for this rulemaking, and they are briefly summarized here.

The proposed amendments mainly add electronic reporting provisions to the rules. In general, the changes do not result in regulated entities needing to submit anything additional electronically that is not currently submitted via paper copies, and this is therefore expected to

lessen the recordkeeping and reporting burden. The information is collected to assure compliance with 40 CFR part 60, subparts IIII and JJJJ and 40 CFR part 63, subpart ZZZZ.

Respondents/affected entities: Owners and operators of stationary reciprocating internal combustion engines at either a major or area source of HAP emissions (ZZZZ); existing and new manufacturers, owners, and operators of stationary compression ignition (CI) internal combustion engines (IIII); existing and new manufacturers, owners, and operators of stationary compression ignition (CI) internal combustion engines (JJJJ).

Respondents' obligation to respond: Mandatory.

Estimated number of respondents: 915,781 (ZZZZ); 207,360 (IIII); 19,835 (JJJJ).

Frequency of response: Varies by rule and by type of response.

Total estimated burden: (61,799) (ZZZZ); (95,928) (IIII); (1,144) (JJJJ) hours (per year).

Burden is defined at 5 CFR 1320.3(b). Note: parentheses indicate a reduction in burden, *i.e.*, a reduced number of hours as a result of the proposed addition of electronic reporting to the rules.

Total estimated cost: (\$7,581,151) (ZZZZ); (\$11,688,145) (IIII); (\$140,379) (JJJJ) (per year), includes \$0 annualized capital or operation & maintenance costs. Note: parentheses indicate a reduction in cost as a result of the proposed addition of electronic reporting to the rules.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9.

Submit your comments on the Agency's need for this information, the accuracy of the provided burden estimates and any suggested methods for minimizing respondent burden to the EPA using the docket identified at the beginning of this rulemaking. You may also send your ICR-related comments to OMB's Office of Information and Regulatory Affairs via email to

OIRA_submission@omb.eop.gov, Attention: Desk Officer for the EPA. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after receipt, OMB must receive

comments no later than **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. The EPA will respond to any ICR-related comments in the final rule.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. The small entities subject to the requirements of this action are small businesses, small governmental jurisdictions and small non-profits across a range of sectors, including but not limited to: Electric power generation, transmission, or distribution; Medical and surgical hospitals; Natural gas transmission; Crude petroleum and natural gas production; Natural gas liquids producers; and National security. Due to a lack of sufficient data about the population of affected engines and facilities, the Agency is unable to identify the specific entities affected by this action, and therefore unable to determine the number of affected entities that are small entities. Although we cannot identify a list of specific entities, we expect that this proposed action will affect small entities.

The proposed amendments to subparts IIII and JJJJ have estimated cost savings for respondents in each year. We conducted analysis assessing the impacts of the costs associated with the proposed amendments to subpart ZZZZ. As shown in the supporting statement to subpart ZZZZ, this subpart has estimated costs of \$32 per respondent in 1 year, and cost savings in following years. We estimate that this compliance cost of \$32 per respondent is below a 0.1 percent impact relative to payroll or sales for nearly all affected small entities, and that there is a large margin before the impacts would approach a 1 percent impact for a substantial number of small entities. Details of this analysis are presented in the memorandum titled *Economic Impact and Small Business Analysis for the Proposed National Emission Standards for Hazardous Air Pollutants: Reciprocating Internal Combustion Engines and New Source Performance Standards: Internal Combustion Engines; Electronic Reporting Amendments*, which is available in the docket for this action.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of \$100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action will reduce reporting costs for all sources, although we did estimate some initial costs (well under \$100 million in the aggregate) for some sources.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. While some Tribes could be impacted by this amendment, this rulemaking would reduce the compliance costs for owners and operators of stationary engines. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2-202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629; February 16, 1994) directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations (people of color) and low-income populations.

The EPA believes that this type of action does not concern human health or environmental conditions and therefore cannot be evaluated with respect to potentially disproportionate and adverse effects on people of color, low-income populations and/or Indigenous peoples. This is because this action involves the addition of electronic reporting and therefore is not expected to change emissions.

Michael S. Regan,

Administrator.

[FR Doc. 2023-13445 Filed: 6/23/2023 8:45 am; Publication Date: 6/26/2023]